

**MINUTES
BERRYVILLE TOWN COUNCIL
Berryville-Clarke County Government Center
Regular Meeting
November 13, 2018
7:30 p.m.**

Town Council: Present-Patricia Dickinson, Mayor; Harry Lee Arnold, Jr., Recorder; Donna Marie McDonald; Diane Harrison; Erecka Gibson; Kara Rodriguez

Staff: Keith Dalton, Town Manager; Christy Dunkle, Planner/Assistant Town Manager; Neal White, Chief of Police; Lisa Larrick, Town Clerk

Press: Mickey Powell, The Winchester Star

1. Call to Order
Mayor Dickinson called the meeting to order at 7:30 p.m.
2. Pledge of Allegiance
3. Approval of Agenda
On motion of Council member Rodriguez, seconded by Council member Harrison, the agenda was approved.

The roll call vote was as follows:

McDonald - Aye
Harrison – Aye
Gibson – Aye
Rodriguez – Aye
Arnold – Aye
Dickinson – Aye
Absent – none

4. Closed Session
Recorder Arnold moved that the Council of the Town of Berryville enter a closed session in accordance with §2.2-3711-A-7 Code of Virginia, for consultation with legal counsel and briefings by staff members pertaining to litigation.

Council member Rodriguez seconded the motion.

The roll call vote was as follows:

McDonald - Aye
Harrison – Aye
Gibson – Aye
Rodriguez – Aye
Arnold – Aye
Dickinson – Aye
Absent – none

Reconvene

At 7:45 p.m., the members of the Town Council being assembled within the designated meeting place in the presence of members of the public and the media desiring to attend, the meeting was reconvened.

Council member Rodriguez moved that the Council of the Town of Berryville adopt the following resolution certifying it has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act.

Council member McDonald seconded the motion.

Resolution

WHEREAS, Section 2.2-3712.D of the Code of Virginia requires a certification by this Council that such closed meeting was conducted in conformity with Virginia law,

NOW, THEREFORE, BE IT RESOLVED that the Council hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Council.

Harry Lee Arnold, Jr., Recorder

The roll call vote was as follows:

**McDonald - Aye
Harrison – Aye
Gibson - Aye
Rodriguez - Aye
Recorder Arnold - Aye
Mayor Dickinson – Aye
Absent: none**

Mayor Dickinson called for action on the item discussed in the closed session. Mr. Dalton identified two documents before the Council as the Motion to Approve Settlement Agreement and Mutual Release and Motion to Adopt a Resolution regarding a strip of land known as "WHEELER LANE." Mr. Dalton said Mr. Mitchell was in attendance and would advise Council on these two documents.

Mr. Mitchell stated that the lawsuit in question was filed after the Town found the Maples in violation of a provision of the Town Code for erecting a private lane sign on their property. He stated that the Town issued a notice of violation to the Maples because the sign in question was deemed to have mimicked an official sign and that the sign might reasonably confuse emergency responders.

Mr. Mitchell stated that terms of settlement have been reached and that the Council would need to approve the Settlement and Mutual Release in order to settle the suit. He also stated that a resolution that would be an attachment to the Settlement and Mutual Release, also needs to be approved by the Council.

Mr. Mitchell stated that the resolution addresses language that was used when the Council denied a petition to vacate what is known as Wheeler Lane in November 2017. He explained that the Maples were concerned that the Town had taken a position in the dispute they have with their neighbor. He stated that the resolution clarifies that the Town takes no position in the dispute regarding the strip of land in question.

Mr. Mitchell stated that the Council would first consider the Settlement and Mutual Release and if that was approved, then it would also need to consider the resolution before them.

Council member McDonald moved that the Council of the Town of Berryville approve the attached Settlement Agreement and Mutual Release and further moves Council to authorize the Town Manager to execute said Settlement Agreement and Mutual Release on behalf of the Town.

Council member Rodriguez seconded the motion.

The roll call vote was as follows:

**McDonald - Aye
Harrison – Aye
Gibson - Aye
Rodriguez - Aye
Recorder Arnold - Aye
Mayor Dickinson – Aye
Absent: none**

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Recorder Arnold moved that the Council of the Town of Berryville adopt the following resolution clarifying its position concerning the legal issue between Carl and Patricia Maples and an adjoining property owner regarding a strip of land known as “Wheeler Lane”.

Council Member Harrison seconded the motion.

The roll call vote was as follows:

**McDonald - Aye
Harrison – Aye**

Gibson - Aye
Rodriguez - Aye
Recorder Arnold - Aye
Mayor Dickinson – Aye
Absent: none

RESOLUTION

WHEREAS, at its meeting on November 14, 2017, Council by motion denied a petition to vacate a strip of land referred to in the petition as “Wheeler Lane”; and

WHEREAS, in the November 15, 2017 letter from the Town advising the petitioners of Council’s action, it was stated that the motion passed by Council included the language “the strip of land is owned in fee simple by an adjoining property owner”; and

WHEREAS, it appears that a dispute exists between the petitioners and the adjoining property owner as to the legal title to the strip of land.

NOW, THEREFORE, Council hereby retracts the aforesaid quoted language from the motion and from the November 15, 2017 letter to the petitioners. The action taken by the Council on the petition remains otherwise unchanged. The Town does not undertake to decide or to take a position as to the legal issue between the petitioners and the adjoining property owner.

5. Public Hearing

No public hearing.

6. Citizens’ Forum

Mayor Dickinson recognized Mary Ivie. She said she appreciates the open forum to discuss the flooding issues and is looking forward to hearing more about solutions from the Town. She said she hopes any development in Town will be reviewed with flooding issues in mind.

Mayor Dickinson recognized Mr. Lonnie Grimes. He said he wants to know where the Council stands on lowering water bills as he hasn’t seen any lower water bills as promised in the 2016 election.

7. Consent Agenda

The Consent Agenda was approved, on motion of Council member Rodriguez, seconded by Council member Harrison. The items approved on the Consent Agenda were:

Minutes of Regular Meeting – 09/11/18

Minutes of Regular Meeting – 10/09/18

Minutes of Work Session – 11/05/18

Minutes of Budget and Finance Committee – 10/18/18

Minutes of Community Development Committee – 10/22/18

Minutes of Personnel, Appointments, and Policy Committee – 10/23/18

Minutes of Public Safety Committee – 10/24/18

Minutes of Streets and Utilities Committee – 10/23/18 & 10/25/18

The roll call vote was as follows:

McDonald - Aye

Harrison – Aye

Gibson – Aye

Rodriguez – Aye

Arnold – Aye

Dickinson – Aye

Absent – none

Mr. Dalton noted the following minutes had corrections:

1. There was a new consent agenda packet before Council as superfluous information included in the consent agenda previously had been removed;
2. There was a change made on Page 3 to the October 22, 2018 Community Development Committee minutes; and
3. There were changes made on Page 2 of the November 5, 2018 Work Session minutes.

8. Report of Patricia Dickinson, Mayor

Mayor Dickinson congratulated Bob Ferree who was named veteran of the year at the Veteran's Day ceremony. Mayor Dickinson noted that the Christmas season has begun with the upcoming parade, tree lighting, and Barns program. She said she encourages everyone to come out and enjoy the activities and shop local. Mayor Dickinson noted that there are openings on the Tree Board.

9. Report of Harry Lee Arnold, Jr., Recorder

Recorder Arnold advised he had nothing additional to report.

10. Report of Christy Dunkle, Assistant Town Manager/Planner

Ms. Dunkle said that the Development Authority had approved the 120-unit age and income restricted facility to be located on Mosby Boulevard. Ms. Dunkle said that the assisted living facility is getting close to certificate of occupancy. She said that the ARB will meet on November 28, 2018 to judge the BMS parking meter contest. She said that no Tree Board or BZA meeting had occurred since the last meeting.

11. Report of Keith Dalton, Town Manager

Water and Sewer Bill Adjustment Appeal.

Mr. Dalton said that in early September, 2018, F&W Management submitted a request for a water and sewer bill adjustment for the period between July 2015 and June 2017 in the amount of \$19,261.06. He said the appeal came to staff and was denied. He said F&W Management then appealed to Council which went first to the Streets and Utilities Committee for review. He said the Committee recommended the request not be granted because the adjustment request was not timely.

Council Member Harrison moved that the Council of the Town of Berryville deny a water and sewer bill adjustment for 209 Chalmers Court.

Council member Rodriguez seconded the motion.

The roll call vote was as follows:

McDonald - Aye

Harrison – Aye

Gibson – Aye

Rodriguez – Aye

Arnold – Aye

Dickinson – Aye

Absent – none

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Town Council Goals for FY 2020.

Mr. Dalton said that Council determined there would be six budget goals studied and developed by staff. He said Council reviewed these items at the November 5th work session and Council would decide tonight which goals they want in the FY2020 budget.

Mayor Dickinson stated she did a straw poll for the top budget goals with Council. She noted that she had the incorrect email for Recorder Arnold and he was not included in the poll. She stated the poll was based on five Council members' input with the following results: (i) Jack Enders SE Collector, (ii) branding and marketing; (iii) police accreditation; (iv) fixed asset inventory; (v) compensation and classification study; and (vi) payroll system audit.

Mayor Dickinson highlighted Council member Ms. Rodriguez's comment in which she said that while she supported the police accreditation, she felt the accreditation should be part of the Department's budget and not a budget goal for Council since it is primarily Chief White's time involved. Mayor Dickinson said she agreed and that it wasn't a strategic objective.

Mayor Dickinson said the top three would be: (i) Jack Enders SE Collector; (ii) branding and marketing; and (iii) fixed asset inventory if police accreditation is taken out.

Council member McDonald expressed her concern about Mayor Dickinson putting out the straw poll. Mayor Dickinson said it was just a starting point.

Council member Harrison stated that she felt the fixed assets study would be more of an internal priority than a Council budget item. Mayor Dickinson said she agreed and that taking inventory was not strategic. Mayor Dickinson noted that the Town has never done a fixed asset inventory and does not have a foundation to develop a plan to manage its assets. She said it could be kept as a management request to instruct Mr. Dalton to complete a fixed asset inventory.

Recorder Arnold asked Chief White if the police accreditation was taken off the budget goals how it would affect him. Chief White said it would not create any problems.

Council member Rodriguez was fully supportive of the Department seeking accreditation. She said the Jack Enders SE Collector and branding and market studies are big economic development issues and believes in both and that there would be a lot of collaboration involved with the County. She said the fixed asset inventory was her third choice as she believes it would be a good base line to have a plan for moving forward.

Council member Gibson said she does not agree with not including the fixed assets and/or police accreditation. She said she understands how they are not strategic, but include a big portion of staff time and feels like they will not get completed because of this. She said that none of the 2020 goals are important enough to consider increasing taxes to complete. She said to implement all six goals it would take eight months of staff time with external costs of \$94,000.00 and if Council only does three of the goals it would take four months of staff time with external costs of \$62,000.00. She said Council should not forget the FY2019 projects that need to be funded.

Council member Gibson said that in the work session Mayor Dickinson stated her priorities were the utility rate study, trash and storm water. She said Council should not lose sight of these and cannot keep adding projects. She said that there is going to be cost for Rose Hill and that needs to be added to the budget.

Council member Gibson said that police accreditation and SE Collector were her top two goals and to finish the projects for FY2019. She said if funding is available her next goal would be the classification study and if funding was not available then the fixed asset study.

Council member Gibson said that phase one of branding and marketing is not a priority for her and the Town should work with what it has and possibly collaborate with the County.

Council member Harrison said that she believes it is key to have traffic and branding studies because they encompass not just the Town but the County, they do not involve a lot of staff time, but do cost money. She said that branding will help with getting other tax bases to draw from and not have to raise taxes.

Recorder Arnold said he is concerned about all the goals because of staff time and Council needs to take that into consideration. He said that the projects the Town is looking at will cost approximately \$100,000.00. He said something has to be cut or taxes will have to be raised. He said his picks are the SE Collector and police accreditation.

Council member McDonald said all would benefit the community; however, her main concern is that Council has not made good on the FY2019 goals. She said she is concerned Council is not understanding accreditation across the board and believes it is very important for any organization. She said Council should finish the FY2019 goals and her picks are the SE Collector and police accreditation. She said that Council needs to let staff have time to do what needs to be done and should stick with two goals and complete the FY2019 goals.

Council member McDonald said she wanted to note for the record that when she campaigned, she said that she would not raise water and sewer rates unless something came up that was out of Council's hands and rates had to be raised.

Council member Rodriguez moved that the Council of the Town of Berryville adopt the following budget goals for fiscal year 2020 and direct the Town Manager to include these projects in the proposed Fiscal Year 2020 budget:

1. Complete the process to apply for and receive accreditation of the Berryville Police Department from the Virginia Department of Criminal Justice;
2. Complete a traffic analysis for the planned southeast Collector in partnership with Clarke County; and
3. Develop a branding and marketing strategy study, enhance www.Berryvilleva.gov, and develop an effective communication strategy to include a social media presence.

Council member Harrison second the motion.

Council member McDonald stated she would support the motion but wanted to make it clear that she only supports goals 1 and 2 for FY2020.

The roll call vote was as follows:

McDonald – Aye
Harrison – Aye
Gibson – Nay
Rodriguez – Aye
Arnold – Aye
Dickinson – Aye
Absent – none

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12. Report of Erecka Gibson - Chair, Budget and Finance Committee

Council member Gibson asked Council to review the check distribution policy. Council member Gibson said that she worked with the Treasurer to draft a check distribution policy and advised how the check policy works.

Council member Gibson moved that the Council of the Town of Berryville adopt the check distribution policy and the associated forms.

Council member Rodriguez seconded the motion.

The roll call vote was as follows:

McDonald – Aye
Harrison – Aye
Gibson – Aye
Rodriguez – Aye
Arnold – Aye

Dickinson – Aye
Absent – none

Council member Gibson said the Committee asked Ms. Halterman to provide any documentation she had on the on-line payments as it may answer some of the Mayor's questions and the Committee could have further discussion at its next meeting. Mr. Dalton said he would have Ms. Halterman provide any documentation she has on this matter.

Council member Gibson said she wasn't sure if the agenda items of on-line payments and concerns about procurement policy contradictions were enough to have a meeting in December given scheduling conflicts.

It was determined the next Committee meeting will be the regular meeting in January.

13. Report of Kara Rodriguez - Chair, Community Development Committee

Council member Rodriguez stated that the Committee discussed the branding and marketing study. She said the next meeting is Wednesday, December 12, 2018 at 4:30 p.m. and Mr. Capelli and Cathy Keuhner have been invited to attend to discuss the direction the County is moving for its economic development and the Town's MOU with the County.

Mayor Dickinson asked about the status of the sidewalk gap analysis. Council member Rodriguez advised that Mr. Echols was present at their last meeting and stated he did not own the property. She stated Mr. Echols did offer to talk to the owner on the Town's behalf. She said the Committee did not direct staff to conduct the analysis.

Mayor Dickinson asked about the status of the livery stable grant application. Mr. Dalton said that the last time he spoke to BMS they felt they would be able to properly look into it in January or February.

14. Report of Donna McDonald – Chair Public Safety Committee

Council member McDonald recognized Chief White. He said the Police Department's holiday toy drive is going on now through December 14, 2018. Chief White said the Department has had a fantastic response so far.

Council member Harrison noted in the report that speeding had gone down by almost half and asked Chief White if that was contributed to the Town's new speed signs. Chief White said it fluctuates but he has received positive responses from the community. Chief White said to measure the effectiveness would be anecdotal adding that it is going to take some time. Chief White noted that Halloween went well.

Council member McDonald clarified that the Committee meeting scheduled for November 28, 2018 at 4:30 p.m. was to discuss and begin a draft on Chapter 8.

There was no Public Safety meeting scheduled for December.

Mayor Dickinson said she had seen a noticeable increase in alarms and wanted to know if someone had gotten a new alarm. Chief White said there was a new alarm system in Town and believes a cleaning crew had been setting off the alarm.

Mayor Dickinson asked Chief White for a synopsis of the Josephine truck study. Chief White said they did the study for 14 days for vehicles in excess of 70 feet. He said there have been more tractor trailers going in than coming out indicating the signage Berryville Graphics installed has been effective. He concluded that seven trips for 14 days at 24 hours a day does not equate to a lot of traffic. Mayor Dickinson asked if there would be a benefit in doing the study for shorter length trucks. Chief White said no as he believes the complaint is for tractor trailers. Mayor Dickinson said she wants to share the results of this study with the residents. Mr. Dalton said that the Department was obtaining some additional information before coming back to Council. Mayor Dickinson asked Mr. Dalton when he thought Council could have that information. Mr. Dalton said in February. Mayor Dickinson asked if something could be done sooner because she doesn't want the residents to think Council isn't addressing their issue. Mr. Dalton asked when Council would like to have it but noted the Department needs at least a month to do additional studies adding that the holidays may skew the data.

Council member McDonald said she wanted to make clear that the Battletown Comprehensive Safety Plan discussion is independent of the Town of Berryville and would never ask the Town to pay for light bulbs on their poles. She said she did ask for more patrols and commended the Police Department for doing more patrols and commends Mr. Dalton for asking REC to look at the HOA's lighting. Council member McDonald advised that there would be a MOU with the Town for the median and that the HOA would be meeting to discuss that issue.

15. Report of Diane Harrison – Chair, Streets and Utilities Committee

Council member Harrison said they had two meetings in October that were very well attended by citizens to get an idea of their issues with storm water. She said the Committee is looking at the data and will continue to work to see if the Committee can come up with some ideas.

Council member Harrison asked Mr. Dalton if the mixer in the three-million-gallon water tank was working. He said the tank has water and is in use and is 98% sure that the mixer is running but would confirm with Mr. Tyrrell. He said the project is essentially complete except for some additional site work and clean up that needs to be finished.

Council member Harrison said she noticed re-digging had started again on East Main Street. Mr. Dalton said that the contractor could not access their disposal site because of weather related conditions. Mr. Dalton said there were to be three sites where the sewer main would be excavated. He said the western most site was re-evaluated and it is expected to be lined through the area without the cut. However, the first cut went longer than expected. Mr. Dalton said the second section has been completed and the third section is to be completed.

Mayor Dickinson asked about the status of the utility rate study. Mr. Dalton said he believes all the information has been submitted except for the broad category of future needs. He said he has set a meeting with the engineering team, Mr. Boor and Mr. Tyrrell and hopes to be able to finalize the data collection soon thereafter.

Mayor Dickinson explained to Mr. Grimes that the utility rate study was done to get a clear picture of how the Town can plan long term. She said the Town has hired an engineer to help with this so that the Town can plan long term for the cost side of providing water and sewer. She said the way to get more revenue is to put more people on the system. Mr. Grimes suggested annexing more people to the Town. Mayor Dickinson said that didn't necessarily mean that they would be on the water and sewer as they could have wells or septic. Mr. Grimes stated that the Town would get real estate taxes from them. Mayor Dickinson explained the Town cannot use real estate taxes to pay for water and sewer as those are two separate funds that don't comingle. She said the 120-unit apartment building and the new assisted living will both help get people on the system; however, the Town needs to look at managing costs.

Recorder Arnold asked Mr. Grimes what area he was suggesting be annexed. Mr. Grimes said the left-hand side of Jack Enders Boulevard before you get Springsbury Road.

There was a discussion about the expansion of the annexation area. Mr. Dalton said the south eastern annexation area would be an expansion of the business park. Mayor Dickinson said it would not be unreasonable to look at other areas as well for annexation. Mr. Dalton said that when the Berryville Area Plan was last updated the BADA identified three potential growth areas one in the Jack Enders area which would likely be used for business park uses, one near 340 and Senseny Road that would be residential and one near Westwood and W. Main Street which would likely be residential.

Council member McDonald said she was not aware there were active septic systems in the Town and asked about any sanitation rules. Mr. Dalton said there are a few homes on S. Buckmarsh, S. Church and First Street that have septic systems. He said the code states that owners may be compelled to connect to system if within 250 feet of the Town sewer line. Mr. Dalton explained if a resident has a failing septic system the Town has permitted a minor repair but if it is a significant repair the Town requires connection to its system.

Mayor Dickinson asked if the Town has heard anything from VDOT on the traffic calming study for South Buckmarsh. Ms. Dunkle said that she, Chief White, and Mr. Dalton discussed with VDOT staff on November 1, 2018 the steps and what it is going to take. She stated VDOT is going to complete a speed study and would provide the information to the Town.

Mayor Dickinson said she would like to get something in place before spring on the storm water management. She said she isn't willing to assume there will be a dry spring and she doesn't believe the residents on Dorsey and Treadwell Streets would want that. She said she would like to look at some of the interim things and would like to do some tactical remediation. Mayor Dickinson said the Town needs to look at what can be done in the immediate future before the spring rains start and that it is critical to have something in place before spring.

There was a discussion about the flood plain area. Mr. Dalton said there is a specific flood plain area identified, Ms. Dunkle is the administrator for that and there are specific things you can and cannot do in a flood plain or in the flood way. He said when it comes to low lying and troublesome areas there are few requirements on which Town staff can rely. He explained the requirements for development. Mr. Dalton said the Town has been requiring grading and as-built plans for at least 20 years. Ms. Dunkle stated she and public works always inspect storm

facilities after big rain events to make sure systems are working properly. She added that this gives a good gauge on newer storm facilities which appear to be functioning quite well.

Council member McDonald asked when Battlefield was built. Mr. Dalton explained the development time frames in the Town. Council member McDonald said her point is development effects storm water drainage.

Mayor Dickinson requested that Streets and Utilities have some kind of plan in place before the spring rains come.

16. Report of Harry Lee Arnold, Jr. – Chair, Personnel, Appointment and Policy Committee
Recorder Arnold said he had some appointments to make.

Recorder Arnold moved the Council of the Town of Berryville re-appoint Mayor Pat Dickinson to the Northern Shenandoah Valley Regional Commission Board of Directors for a term to expire on December 30, 2019.

Council member Gibson seconded the motion.

The roll call vote was as follows:

**McDonald – Abstain
Harrison – Aye
Gibson – Aye
Rodriguez – Aye
Arnold – Aye
Dickinson – Aye
Absent – None**

Recorder Arnold moved the Council of the Town of Berryville re-appoint Christy Dunkle as an alternate to the Northern Shenandoah Valley Regional Commission Board of Directors for a term to expire on December 30, 2019.

Council member Gibson seconded the motion.

The roll call vote was as follows:

**McDonald – Aye
Harrison – Aye
Gibson – Aye
Rodriguez – Aye
Arnold – Aye
Dickinson – Aye
Absent – None**

Recorder Arnold advised the Committee had a meeting scheduled on November 14, 2018 to interview individuals for the BADA.

17. Other

Council member McDonald said she had been remiss in pointing out the thank you letters to the Police Department from a homeowner and the Darbybrook community. She said these are things that makes the Police Department great and why we must support them in any way possible.

Mayor Dickinson asked if Council had received the Barns of Rose Hill's request to fund a movie presentation. Council discussed and unanimously agreed to deny the request. Mr. Dalton said he would communicate that to Ms. Kincannon.

18. Adjourn

There being no other business, upon motion of Council member Rodriguez, seconded by Council member McDonald, the meeting was adjourned at 9:45 p.m.

Harry Lee Arnold, Jr., Recorder

Lisa Larrick, Town Clerk

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Mutual Release (this "Agreement") among **Carl and Patricia Maples** (the "Maples") and **the Town of Berryville, Virginia** (the "Town") (collectively, the "Parties") is entered into as of the date of the last signature affixed hereto.

WITNESSETH:

WHEREAS, the Maples are residents of the Town; and

WHEREAS, the Maples filed a lawsuit (the "Litigation") against the Town in the Circuit Court of Clarke County, Virginia, styled *Carl and Patricia Maples v. Town of Berryville*, Case No. CL18004606; and

WHEREAS, Counts I through V of the Litigation refer to a dispute (the "Sign Dispute") between the Parties arising out of certain actions taken by the Town in an attempt to require the Maples to take down a sign currently erected on their property (the "Current Sign") pursuant to Section 10-7(g) of the Berryville Code of Ordinances (Counts I through V of the Litigation are referred to as the "Sign Dispute Claims"); and

WHEREAS, a separate dispute has arisen between the the Maples and an adjoining property owner, Norma Slattery, regarding ownership over a certain tract of land adjacent to the Maples' property known as Wheeler Lane (the "Wheeler Lane Dispute"), and with regard thereto a dispute has arisen between the Parties as to a certain statement contained in a Motion passed by the Town's Council on or about November 14, 2017 (Count VI of the Litigation is referred to as the "County Motion Claim"); and

WHEREAS, the Parties wish to fully and finally compromise and settle the Sign Dispute Sign Dispute Claims and the County Motion Claim without any admission of liability.

NOW, THEREFORE, in consideration of the foregoing, the promises contained herein, and for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties do hereby agree as follows:

1. **Obligations of the Maples:**

- 1.1. Within forty-five (45) days after full execution of this Agreement, the Maples shall cause the top of the Current Sign to be removed and replace it with a design that is substantially similar to the design contained in the document attached to this release as Exhibit A (the "Future Sign").
- 1.2. The Maples for themselves and their insurers, agents, successors, and assigns, do hereby fully and finally release the Town and its officers, members, directors, managers, agents, attorneys, employees, insurers, successors and assigns (hereinafter collectively referred to as the "**Town Releasees**") from the Sign Dispute Claims of the Litigation and the Town Motion Claim. Other than to enforce this Agreement, the Maples further covenant that they will not file any claims, complaints, demands, lawsuits, administrative actions, charges, or causes

of action in law or in equity, or seek any relief or monetary setoff or recoupment against the Town Releasees or any of them based upon the Sign Dispute Claims and/or Town Motion Claim released by this Agreement. By executing this Agreement, the Maples are releasing only the Town from said claims, and no other third party.

- 1.3. Within two (2) business days after full execution of this Agreement, the Maples shall cause their counsel to endorse the consent order attached to this release as Exhibit B and forward same to counsel for the Town.

2. **Obligations of the Town:**

- 2.1. The Town hereby agrees that it shall take no action, either itself or by way of any action taken by the Town's officers, members, directors, managers, agents, attorneys, employees, insurers, successors and assigns acting on behalf of the Town, to enforce Section 10-7(g) of the Berryville Code of Ordinances against the Maples, or seek in any way to require the Maples remove the Current Sign or the Future Sign from their Property, whether under color of law or otherwise.
 - 2.2. At the next scheduled Town Council meeting following execution of this Agreement, the Town shall cause its Council to pass the resolution attached to this Agreement as Exhibit C.
 - 2.3. The Town for itself and its officers, members, directors, managers, agents, attorneys, employees, insurers, successors and assigns, do hereby fully and finally release the Maples and their insurers, agents, successors and assigns (hereinafter collectively referred to as the "**Maples Releasees**") from the Sign Dispute Claims the Litigation. Other than to enforce this Agreement, the Town further covenants that they will not file any claims, complaints, demands, lawsuits, administrative actions, charges, or causes of action in law or in equity, or seek any relief or monetary setoff or recoupment against the Maples Releasees or any of them based upon the Sign Dispute Claims released by this Agreement.
 - 2.4. Within two (2) business days receipt on the aforesaid consent order from counsel for the Maples, the Town shall cause its counsel to endorse and file the consent order with the Court.
3. **No Admission of Liability.** This Agreement does not constitute an admission by the Parties of any wrongful action or violation of any federal or state statute or local ordinance or common law rights; nor does this Agreement constitute an admission that any local ordinance involved in the dispute between the parties is valid or invalid; nor does this Agreement constitute an admission concerning any vested right(s) of the Maples. Rather, the parties agree that this Agreement is a compromise of disputed claims and that all parties to this Agreement deny any and all liability to any other party. The parties specifically acknowledge that no party is to be regarded as a prevailing party for any purpose and that each party is responsible for its own attorney's fees and costs.

4. **Other Disputes Excluded from Agreement.** The parties hereby agree that this Agreement only resolves the Sign Dispute, the Sign Dispute Claims, and the Town Motion Claim between the Parties, and does not affect or resolve any other dispute or litigation, pending or otherwise, including any dispute or Litigation between the Maples and any third party regarding the ownership of the strip of land known as Wheeler Lane. The parties explicitly agree that that no party may use any portion of this Agreement, the terms contained herein, or any substantive portion of the facts forming the Sign Dispute as evidence in any hearing or other proceeding related to any other dispute or litigation, pending or otherwise.
5. **Representations; Authority.** Each Party to this Agreement represents and warrants to the other Parties that (x) it has the authority to execute this Agreement and, as applicable, that each signatory hereto is duly authorized in accordance with applicable law, (y) in executing this Agreement, the Party has not relied upon any representation or statement made by another Party or its agents, representatives, or attorneys with regard to the subject matter, basis, or effect of this Agreement, and (z) it has made no assignment, and will make no assignment of any claim, cause of action, right of action or any right whatsoever embodied in any of the claims referred to in this Agreement and that no other person or entity of any kind has any interest in any of the demands, obligations, actions, causes of action, debts, liabilities, rights, contracts, damages, costs, expenses, losses or claims referred to in this Agreement.
6. **Time is of the Essence.** Time is of the essence in each Party's performance of all obligations under this Agreement.
7. **Choice of Forum.** The courts of Clarke County, Virginia shall have exclusive jurisdiction over any claims, demands, damages, lawsuits, or causes of action that arise out of, relate to, or concern this Agreement. In the event that any Party breaches this Agreement, the non-breaching Party shall be entitled to recover reasonable attorneys' fees arising out of or related to all efforts to enforce this Agreement in addition to all other remedies available to it.
8. **Governing Law.** This Agreement is governed and shall be construed by the laws of the Commonwealth of Virginia.
9. **Severability.** In the event that any provision of this Agreement is invalidated by a court of competent jurisdiction, then all of the remaining provisions of this Agreement shall continue unabated and in full force and effect.
10. **Binding Effect.** This Agreement shall be binding upon each of the Parties to this Agreement and upon their respective successors and assigns and shall inure to the benefit of each of the Parties to this Agreement and to their respective successors and assigns.
11. **Joint Drafting.** This Agreement shall be deemed to have been jointly drafted by the Parties for all purposes involving its construction and enforcement.
12. **Entire Agreement.** This Agreement contains the entire understanding and agreement between the Parties and shall not be modified or superseded except upon express written consent of all Parties to this Agreement.

13. **Execution in Counterparts; Facsimile or Email Signature.** This Agreement may be executed in counterparts, all of which taken together shall constitute one and the same Agreement. This Agreement may be executed by facsimile or email signature and any such facsimile or email signature shall be deemed an original.
14. **Opportunity to Consider and Confer.** The Parties acknowledge that each Party has had the opportunity to read, study, consider and deliberate upon this Agreement, and has had the opportunity to consult with counsel, and that all Parties fully understand and are in complete agreement with all of the terms of this Agreement. Each Party is to bear its own costs with respect to the preparation, revision, and execution of this Agreement.
15. **Additional Documents.** The Parties agree to cooperate fully and execute any and all supplementary documents and to take all additional actions that may be necessary or appropriate to give full force and effect to the basic terms and intent of this Agreement.

[Signatures on following page(s).]

IN WITNESS WHEREOF, the undersigned have executed this Settlement Agreement and Release as of the dates set forth below.

Carl Maples (SEAL)
CARL MAPLES

Date: Nov. 2, 2018

Patricia Maples (SEAL)
PATRICIA MAPLES

Date: Nov 2, 2018

TOWN OF BERRYVILLE

By: _____ (SEAL)

Date: _____

Name:

Title:

Exhibit A

Design of Future Sign

[see attached]

16"

**Wheeler
Lane
Pvt.**

16"

06/18/2018 15:01

Exhibit B

Form of Consent Order

[see attached]

VIRGINIA:

IN THE CIRCUIT COURT OF CLARKE COUNTY

CARL E. AND PATRICIA K. MAPLES,

Plaintiffs,

v.

CASE NO. CL18004606-00

TOWN OF BERRYVILLE, VIRGINIA,

Defendant.

CONSENT ORDER

This day came the Plaintiffs, Carl and Patricia Maples ("the Maples"), by counsel, and the Town of Berryville, Virginia ("the Town"), by counsel, collectively referred to herein as "the Parties", representing to the Court that all issues in the case between the Parties have been settled, and submitted this Consent Order for entry.

It is therefore ADJUDGED and ORDERED as follows:

1. Counts I through VI, inclusive, of the Verified First Amended Complaint ("Amended Complaint") are hereby dismissed, with prejudice.
2. Count VII of the Amended Complaint is dismissed, with prejudice, as to the Town.

3. First Count VII (Declaratory Judgment)¹ having been dismissed as to the Town in paragraph 2, above, the remainder of Count VII is hereby nonsuited per motion of the Maples.

4. Second Count VII (Malicious Prosecution) is hereby nonsuited per motion of the Maples.

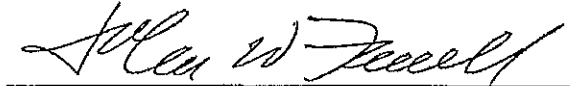
This Order is FINAL.

Enter this _____ day of _____, 2018.

Alexander R. Iden, Judge

CARL MAPLES and PATRICIA MAPLES

By



John W. Farrell, Esquire

VSBS#: 23670

McCandlish & Lillard PC

11350 Random Hills Road, Suite 500

Fairfax, VA 22030

Phone: 703-934-1182

Fax: 703-273-4592

Email: jfarrell@mccandlishlawyers.com

Counsel for Carl and Patricia Maples

¹ There are two Counts in the Amended Complaint titled "Count VII".

TOWN OF BERRYVILLE, VIRGINIA

By _____

Robert T. Mitchell, Jr., Esquire

VSB#: 3190

Hall, Monahan, Engle, Mahan & Mitchell

9 East Boscawen Street

P. O. Box 848

Winchester, VA 22604-0848

Phone: 540-662-3200

Fax: 540-662-4304

Email: rmitchell@hallmonahan.com

Counsel for Town of Berryville, Virginia

Exhibit C

Town Council Resolution

[see attached]

RESOLUTION

WHEREAS, at its meeting on November 14, 2017, Council by motion denied a petition to vacate a strip of land referred to in the petition as “Wheeler Lane”; and

WHEREAS, in the November 15, 2017 letter from the Town advising the petitioners of Council’s action, it was stated that the motion passed by Council included the language “the strip of land is owned in fee simple by an adjoining property owner”; and

WHEREAS, it appears that a dispute exists between the petitioners and the adjoining property owner as to the legal title to the strip of land.

NOW, THEREFORE, Council hereby retracts the aforesaid quoted language from the motion and from the November 15, 2017 letter to the petitioners. The action taken by Council on the petition remains otherwise unchanged. The Town does not undertake to decide or to take a position as to the legal issue between the petitioners and the adjoining property owner.

Patricia Dickinson, Mayor

Harry Lee Arnold, Jr., Recorder

MINUTES
BERRYVILLE TOWN COUNCIL
BUDGET & FINANCE COMMITTEE
Berryville-Clarke County Government Center
October 18, 2018
10:30 a.m.

Town Council: Present: Erecka Gibson, Chair; Patricia Dickinson; Kara Rodriguez

Staff: Keith Dalton, Town Manager; Desiree Moreland, Treasurer; Heather Halterman, Finance Clerk, Lisa Larrick, Town Clerk

1. Call to Order

The meeting was called to order at 10:30 a.m. by Committee Chair Gibson.

2. Approval of Agenda

Ms. Gibson made the motion to approve the amended agenda, seconded by Ms. Rodriguez, the motion was approved by voice vote.

3. Discussion – On-line payment options

The Committee discussed the on-line payment options presented by the Ms. Halterman. Ms. Halterman stated that her approach was intended to provide customers with more payment options while not tying the Town's hands in the future.

The Committee discussed the advantages and disadvantages of providing this service. Ms. Gibson and Ms. Rodriguez indicated that they were comfortable with the services provided by Invoice Cloud. Ms. Dickinson stated that an RFP should be issued for this service in order to protect the Town from the possibility that it will have to change gears in the future if it finds that the chosen service provider does not meet the Town's needs.

The Committee discussed goal of paperless billing. Mr. Dalton noted that going paperless was not a goal that had been a part of what was presented and if the Committee wanted to go in that direction staff would have to go back to the drawing board.

Ms. Dickinson reiterated her interest in having an RFP, recommendations, references, implementation plan, and a risk management plan. She noted that the risks associated with this project are significant.

The Committee asked Ms. Halterman to share documentation she had available such as any contracts and the Committee would review the documentation and

reconvene discussion on the on-line payment options at the next Budget and Finance Committee meeting.

4. Discussion – Budget Goal: Payroll Internal Controls Audit

The Committee discussed how the current system handles the accruals of annual and compensatory time and how often that was paid out, the actual cost of an internal control audit and the timing of implementing the assessment. Committee member Gibson said she is not convinced at the necessity but is not going to say no. She wants to weigh the cost and benefit with other goals. Committee member Rodriguez supports it being done but not necessarily the timing. Mayor Dickinson said it is high on her list of priorities.

5. Discussion – Budget Goal: Fixed Assets Inventory

The Committee discussed how the capital fixed assets would be updated, the necessity of a policy, how the tags would be used, the cost and benefits for the Town. Mr. Dalton said that they may need to work with Clarke County on joint assets. He noted this would affect costs. Ms. Moreland said she would get the audit updated on website for 2017.

6. Discussion – Check Distribution Policy

Ms. Gibson presented a new draft policy. The Committee discussed the new draft and agreed to several changes. The Committee agreed that the revised policy and forms should be forwarded to the Town Council for review and approval.

7. Closed Session

No Closed Session Scheduled

8. Other

Mr. Dalton advised counsel that a Josephine Street property had been taken off tax delinquent sale list as it did not belong to the Estate of George Williams but to Milton Valley Cemetery.

Ms. Gibson asked about the status of the McDonalds and Mr. Dalton said that it was still coming to his knowledge but he did not have a time frame.

Ms. Dickinson said that the Procurement Policy contained contradictions that needed to be resolved and then brought back to the Council.

The Mayor stated that a work session devoted to discussion budget goals for FY2020 would be necessary. She asked Mr. Dalton to set the meeting for November 5, 2018 at 3:00 pm.

The Committee agreed that it would not meet in November. The Committee discussed meeting in December but chose not to set a date at this time.

9. Adjourn

There being no further business, Ms. Gibson adjourned the meeting at 12:20 p.m.

BERRYVILLE TOWN COUNCIL COMMUNITY DEVELOPMENT COMMITTEE
Berryville-Clarke County Government Center
MINUTES
Monday, October 22, 2018

A meeting of the Berryville Town Council Community Development Committee was held on Monday, October 22, 2018 at 4:30pm in the Berryville – Clarke County Government Center located at 101 Chalmers Court in Berryville, Virginia.

Attendance: Members of the Committee present: Kara Rodriguez, Chair; Diane Harrison

Member absent: Donna McDonald

Staff present: Keith Dalton, Town Manager; Christy Dunkle, Assistant Town Manager/Planner; Lisa Larrick, Town Clerk

Others present: Mary Kay Kobayashi and Karie Griffin representing the Clarke County Farmers' Market; Alton Echols

Chair Rodriguez called the meeting to order at 4:32pm.

Approval of Agenda

Ms. Harrison made a motion to approve the agenda and was seconded by Chair Rodriguez. The agenda was approved.

Updates

Hogan's Alley

Mr. Dalton stated that he had met with BMS and that it is clear that Phase 1 will not occur this fall. He stated that they feel confident that the effort can move forward in the spring.

Livery Stable

Mr. Dalton stated that he had also discussed the matter of the feasibility grant for the livery stable with BMS. They feel confident that the grant will be completed within a few months.

Discussion – Clarke County Farmers Market Request

The Committee discussed the Clarke County Farmers' Market's request to use the Rixey Moore parking lot for a holiday market. Chair Rodriguez supported the idea. The logistics for vendor set up was discussed and Mr. Dalton said they could set up during the parade. Mr. Dalton and Chair Rodriguez said the parking lot could be closed off in the morning. Parking issues were discussed and Chair Rodriguez said it could start letting people know where there are parking alternatives and talk to Chief White about getting vendors in.

Ms. Harrison suggested opening before the parade and having the hours for the market between 10:00 a.m. and 2:00/3:00 p.m. Ms. Kobayashi and Ms. Griffin thanked the Committee members for their support.

Mr. Dalton, Ms. Dunkle and Chief White will work on the details.

Discussion – Budget Goal: Branding, Marketing and Communication

The Committee discussed how to define and move forward with its branding. Ms. Harrison said that the Committee needs to discuss the marketing and branding with businesses and residents and that branding needs to speak to multiple things and attract new business and tourism.

The Committee discussed the signage that had previously been designed. Chair Rodriguez said that she had received negative feedback on this design on FaceBook. She suggested that the Committee needs to take a new look at signs and branding. There was a discussion about what branding means. Chair Rodriguez said it is logo, tag line and consistency.

Ms. Harrison said that it should be a phased in approach that includes hiring a consultant or Shenandoah University students focusing on the look and feel of the brand. She added that this would include interviews/focus groups, meeting with stakeholders, and public forums.

Chair Rodriguez said she would forward to staff estimates. She said the second year should focus on communication, website and social media presence and the third year should focus on physical signage.

Discussion – Committee Charge

The Committee discussed the changes proposed by Chair Rodriguez to the previous draft and Ms. Harrison agreed with the changes. Mr. Dalton will send to Ms. McDonald for her review.

Discussion – Sidewalk Gap on Mosby Blvd.

The Committee discussed with Mr. Echols if he would be willing to partner on this project. Mr. Echols said he was not the owner of this property. Mr. Echols said the Town should contact the owner of the property to see if they would be willing to partner on this project. Mr. Echols said he will be happy to approach the owner on the Town's behalf.

Chair Rodriguez said that the Town is going to need this section of sidewalk but thinks it should be put on the shelf for the moment and brought back in a month or two.

Other

Chair Rodriguez wants to look at the MOU with BMS and have Len Capelli and Cathy Kuehner come in for one of the next meetings with the understanding that the discussion would take most of the meeting.

Chair Rodriguez said after the new year when BMS has its new director the Committee should meet with them.

She said the Committee should talk about its priorities in January.

The Committee set its next meeting date for December 12, 2018 at 4:30 p.m.

Mr. Dalton said he will check with Mr. Capelli and Cathy Kuehner.

There being no further discussion, Ms. Harrison made a motion to adjourn and Chair Rodriguez seconded the motion, the meeting was adjourned at 5:29pm.

BERRYVILLE TOWN COUNCIL PERSONNEL COMMITTEE
Berryville-Clarke County Government Center
MINUTES
October 23, 2018

A meeting of the Berryville Town Council Personnel Committee was held on Tuesday, October 23, 2018 at 9:00am in the Berryville – Clarke County Government Center located at 101 Chalmers Court in Berryville, Virginia.

Attendance: Members of the Committee present: Jay Arnold, Chair; Erecka Gibson; Pat Dickinson arrived at 10:00 a.m.

Staff present: Keith Dalton, Town Manager; Christy Dunkle, Assistant Town Manager/Planner; Lisa Larrick, Town Clerk

Chair Arnold called the meeting to order at 9:05am.

Approval of Agenda

Chair Arnold made the motion to approve the agenda, seconded by Ms. Gibson, the agenda was approved.

Discussion – Budget Goal: Compensation and Classification Study

Mr. Dalton noted that the project statement provided to the Committee was self-explanatory. He stated that he wanted to draw the Committee's attention to the administrative issues section of the statement. He noted that given that results of the study would be received in April 2020, that the Council should include monies in the FY2021 budget to fund the study's recommendations.

Chair Arnold stated that he has become aware that the County is working to complete a similar study in their organization. The Committee asked Mr. Dalton to speak with Mr. Ash to see if there could be some possibility of working together on this matter.

The Committee discussed the need for job descriptions to be reviewed by the consultant when performing the study. Further, the Committee discussed the possibility of having the consultant provide guidance and recommendations regarding the job descriptions, particularly as it relates to ADA compliance.

Ms. Gibson addressed several issues she had with the project statement.

The Committee asked Mr. Dalton to make the enumerated changes in the project statement and contact the County prior to the work session on November 5.

Discussion – Vacancies

The Committee discussed the matter of appointment to the Northern Shenandoah Valley Regional Commission. Chair Arnold stated that he recalled that this matter had been addressed. Staff was asked to examine this matter and report back.

The Committee discussed the matter of appointments to the Tree Board. The Committee was of the opinion that it did not appear likely that the individuals seeking appointment to the BADA would be interested in appointment to the Tree Board but it would have to see.

The Committee agreed to interview five applicants for the BADA on November 14, 2018 or November 20, 2018.

Updates – Social Media Policy/Social Media Approach

Mr. Dalton discussed the need to finalize the approach to archiving social media sites of Town Council members. The Committee agreed that this needs to be addressed. Ms. Gibson noted that she supports moving to contract for this service during this budget year and utilizing contingency funds to cover the costs.

Mr. Dalton discussed his recommendation that the Town work to partner with the County and utilize their social media sites as a first step in this effort. He stated that if the Town found that it had a great deal of content and the means of administering sites then it could later stand up its own sites. He note that he would soon make a proposal to the Council in this regard.

Updates – Job Descriptions

The Committee discussed the job descriptions for the positions appointed by the Town Council. The Committee discussed proposed changes to the Treasurer's job description and noted that any changes would have to take into account the current Treasurer's experience.

Discussion - Meeting Procedures

Mr. Dalton noted some changes to the Town Council's meeting procedures that have been discussed and asked whether the routine use of the roll call should be added to the meeting procedures. The Committee noted that the means of voting will have to be agreed upon by the Council.

Mr. Dalton reported on his discussions with two contractors who provide agenda preparation packages. He noted that this item will likely be presented as a budget item.

The Committee discussed the change in how draft meeting minutes would be reviewed that was proposed by the Mayor. The Committee agreed they saw no need to change the process of minutes review where the draft minutes are reviewed by the Recorder and then sent to the entire Council.

Ms. Dickinson arrived and those in attendance provide a brief summary of what had occurred in the meeting.

Other

The Committee discussed the times that members would be available for the BADA interviews.

Adjourn

There being no further business, Chair Arnold the meeting was adjourned at 10:10am.

MINUTES
BERRYVILLE TOWN COUNCIL
PUBLIC SAFETY COMMITTEE
Berryville-Clarke County Government Center
October 24, 2018
4:30 p.m.

Committee members: Present - Donna McDonald, Chair; Patricia Dickinson, Diane Harrison

Staff: Keith Dalton, Town Manager; Neal White, Chief of Police, Lisa Larrick, Town Clerk

Press: Mickey Powell, The Winchester Star

1. **Call to Order**

The meeting was called to order at 4:30 p.m. by Committee Chair McDonald.

2. **Approval of Agenda**

Ms. Dickinson made the motion to approve the amended agenda, seconded by Ms. Harrison, the motion was approved by voice vote.

3. **Department Update**

The Committee and staff discussed the following topics:

- Department's new police vehicle that had been delivered and is in service
- Department is ready for Halloween and glow sticks will be handed out
- Radar signs are up and working
- E-Citation – is up and running and working well
- Public Works Bay for Department is completed

4. **Town Code Review Update**

The Committee and staff discussed the following topics:

- Staff was on track to get the code revisions for Chapters 8 and 20 to the Committee by 11/28/18

5. **Budget Goal: Police Department Accreditation**

The Committee and staff discussed the Department's accreditation project. Chief White discussed he had been in contact with community members offering their assistance for the review process. The Committee discussed whether it was a good use of Chief White's time. The Committee and staff discussed some of the advantages to having this accreditation. Items discussed included lower insurance premiums, standardized procedures, public image, professionalism and lower turnover. Chief White stated the project would take approximately 18 months to complete and that the out of pocket costs would be minimal to the Town. Mayor Dickinson asked staff to revise the report by breaking down the costs over two years. Chair McDonald stated she supports this project and that the full amount requested be budgeted for FY2020.

6. **Comprehensive Battletown Neighborhood Safety Plan**

The Committee and staff discussed the street lighting concerns. Chair McDonald asked staff to get to her information on LED lights for her to take to the HOA. Chief White advised that he and

Officer Vorhees, who is a certified Community Crime Prevention Specialist, would be going around the community and checking to identify anything that would help with safety. Chair McDonald set a meeting with Chief White on January 21, 2019 at 5:00 p.m. with the HOA. Mr. Dalton asked Chair McDonald to send him the electric bills for the HOA. Chair McDonald thanked the Police Department for their presence in the Battletown community.

7. Closed Session

No Closed Session Scheduled

7. Other

The Committee and staff discussed the following topics:

- Any additional opportunity for young children to trick or treat in the downtown
- Battletown HOA improving the median on Page Street. Mr. Dalton advised he would get an agreement to the HOA for their review
- Set the next meeting for November 28, 2018 at 4:30 p.m.

8. Adjourn

There being no further business, Ms. Dickinson made a motion to adjourn the meeting, seconded by Ms. Harrison, the motion passed by voice vote at 5:50 p.m.

BERRYVILLE TOWN COUNCIL STREETS AND UTILITIES COMMITTEE
Berryville-Clarke County Government Center
MINUTES
October 23, 2018

A meeting of the Berryville Town Council Streets and Utilities Committee was held on Tuesday, October 23, 2018 at 5:00pm in the Berryville – Clarke County Government Center located at 101 Chalmers Court in Berryville, Virginia.

Attendance: Members of the Committee present: Diane Harrison, Chair; Pat Dickinson

Staff present: Keith R. Dalton, Town Manager; Christy Dunkle, Assistant Town Manager/Planner

Press present: Mickey Powell, Winchester Star

Chair Harrison called the meeting to order at 5:01pm.

Approval of Agenda

The agenda was approved by consent.

Public Forum – Stormwater Concerns

Chair Harrison reviewed the intent of the meeting and time allotted per property owner.

Mr. Dalton made a brief presentation regarding development and storm water management in the Berryville Area.

Ms. Dunkle made a brief presentation regarding the Town's Flood Plain Ordinance.

Chair Harrison recognized Chris Crawford. Mr. Crawford said he recently purchased his property on Dorsey Street. He stated that he gets water from three directions and is concerned about standing water on his property. He recommended that the Town construct a swale on his property and the adjacent property.

Chair Harrison recognized Steve Wisecarver. Mr. Wisecarver said he had just built a house on Treadwell Street. There is standing water in his yard and water seeping into the crawl space during construction. Water from throughout the area, including that from sump pumps comes by his house.

Chair Harrison recognized Jerry Van Voorhis. Mr. Van Voorhis said that it has been an exceptional year for rain but he has had water concerns on his property and 31 other homes in the area since May. He said that construction on West Main Street exacerbated the situation and suggested constructing a swale on his property. He stated that it would be reasonable for affected property owners to participate in this project. He stated that the Jackson Drive Pond does not appear to be working.

Chair Harrison recognized Kathleen Salter. Ms. Salter said that due to a rock outcropping water is standing in her driveway along Swan Avenue and stating that 40 houses in town have flooded this summer. She stated that the Town's recent paving of Swan Avenue has doubled the amount of water that ponds in her drive.

Chair Harrison recognized Vicki Trabold. Ms. Trabold said she recently purchased a house on Dorsey and has had sump pumps running constantly. She said the house is low and felt she could not do anything about the water.

Chair Harrison recognized Jenny Jenkins. Ms. Jenkins said she purchased her house on Walnut in 2001 and has had flooding issues since that time. She said she was assured by the developer of the adjacent property that once construction was completed; the flooding would not occur. She said it has flooded three or four times each year from Archer and Ashby Courts and noted that the ditch behind her property remains full of water.

Chair Harrison recognized Deborah Carter. Ms. Carter said she has lived on Academy Street for 22 years and has had problems nearly every year. She said there are no storm drains in the area and that Jackson Pond adds to her drainage problem.

Chair Harrison recognized Lisa Giglio. Ms. Giglio said that water ran into her crawl space during a storm in May which has not previously occurred. She said the problem worsened when the house behind her on Treadwell Street was constructed. There was a discussion about the culverts at the corner of Academy and Treadwell.

Chair Harrison recognized Wes Price. Mr. Price said they had no problems with water in their house but the backyard has been flooding. He said that things changed when Mr. Wisecarver built his house on Treadwell as this was the location where the stormwater would pond.

Chair Harrison recognized Brian Bowman. Mr. Bowman said that his home is downstream from Dorsey and that his property had flooded three times in the previous five or six years but it has been nearly constant this year. He said that half of his yard was underwater adding that there was no damage to the structure. He said the culvert at Main Street flows well but that the water had difficulty making it into the culvert at Main Street.

Chair Harrison recognized Ed Barks. Mr. Barks said he lived on the east side of Town and that there must be a way to keep the water moving. He said the run used to be completely dry during certain times of the year. He said this is the new normal and the storm events will keep getting worse. He added that the Town should be forward thinking in their planning efforts. He acknowledged the work of Public Works staff's efforts during rain events. He recommended that the Town explore means by which flood insurance requirements on individual property owners can be reduced.

Chair Harrison recognized David and Terry Lawson. Mr. Lawson said their sump pump runs constantly.

Chair Harrison recognized Loretta Allison. Ms. Allison said her property at Liberty and Page streets is a lake adding that residents of the townhouses direct their sump pump discharge onto her property. She said a tree fell on Page Street this year and was concerned about injury to people and property.

Chair Harrison recognized David Bodkin. Mr. Bodkin said his house on the corner of Swan Avenue and Rosemont Circle has had consistent problems since the middle school constructed an addition. He said he hoped the water could be directed toward the storm facility on the school property.

Chair Harrison asked for additional comments. There were none.

Ms. Dickinson said she will get ahead of mosquito abatement in the spring.

Mr. Crawford asked whether the technology improvements since the Jackson Pond was built and the construction of the high school would make a difference in efficiency.

Ms. Dickinson said the Town would look at these issues and that at this point all approaches and options are on the table.

Adjourn

There being no further discussion, the meeting was adjourned at 6:18pm.

BERRYVILLE TOWN COUNCIL STREETS AND UTILITIES COMMITTEE
Berryville-Clarke County Government Center
MINUTES
October 25, 2018

A meeting of the Berryville Town Council Streets and Utilities Committee was held on Thursday, October 25, 2018 at 6:30pm in the Berryville – Clarke County Government Center located at 101 Chalmers Court in Berryville, Virginia.

Attendance: Members of the Committee present: Diane Harrison, Chair; Pat Dickinson

Staff present: Keith R. Dalton, Town Manager; Christy Dunkle, Assistant Town Manager/Planner, Lisa Larrick, Town Clerk

Others present: Zach Tabor and Michelle Childress representing F&W Management and Country View Apartments

Press present: Mickey Powell, Winchester Star

Chair Harrison called the meeting to order at 6:30pm.

Approval of Agenda

The agenda was approved by consent.

Discussion – Water and Sewer Bill Adjustment Request

The Committee discussed F&W Management's request for an adjustment to their water and sewer bill because of a long-term water leak. Mr. Tabor withdrew his statement that the Town had not handled this issue properly and stated that it was miscommunication by his staff and that they were happy with the way the Town had handled this issue.

The Committee discussed the delay in the request from F&W Management and that some communication would have been helpful. Mr. Tabor advised that the delay was because this was a unique issue and they wanted to make sure the leak was fixed and the Town was provided with comprehensive information.

The Committee advised that they would not make a recommendation to start an adjustment.

Project Updates

Water Tank Maintenance

Mr. Dalton stated it was imminent that water would be put back in the tank, the water in the tank would be tested early next week and that the tank is still on track to be back in service before the third week of November.

Paving

Mr. Dalton stated that work on the public works building bays was complete. He noted that the second FY18 and first FY19 paving work has been completed.

East Main Street Sewer Main Rehabilitation

The Committee discussed that the contractor would be mobilizing for point repair soon but no fixed date had been set for repairs to begin and be completed. The Committee expressed concern about where point repair operations might begin and whether the work would affect parking for holiday shoppers.

Discussion – Budget Goal Traffic Analysis Southeast Collector

Ms. Dunkle explained the proposed traffic study for the southeast collector road and that the cost would be split with the County. The Committee discussed possible sites where the road would go and that the study will help determine road network and the expansion of the business park. The Committee discussed who would take the lead and how the costs would be split between the Town and County.

Ms. Dickinson said that until something was done with Jack Enders Boulevard she did not have any interest in expanding the business park. Mr. Dalton said that the study would look at this and give alternatives for future business expansion.

Ms. Dickinson said that risk of co-managing the study should be included in the budget goal document. Chair Harrison said that would be part of the scope of the project between the Town and County.

Discussion – Water and Sewer Billing Adjustment Policy

The Committee discussed the Town's Water and Sewer Adjustment Policy. The Committee inquired as to how the Town currently deals with high readings and potential leaks. Mr. Dalton explained that soon after meter reading is complete, a re-read list is generated. He noted that properties are placed on the re-read list because the billing software detects a significant change in usage. He said that Public Works personnel perform re-reads in order to: 1) confirm the reading, 2) determine how much usage there has been since the initial reading, and 3) examine the situation to see if there is a leak. He noted that Public Works personnel work to contact the owner and involve them in the process of determining whether there is a leak. He also noted that if Public Works personnel detect a significant leak and the owner is unavailable, they turn the water off.

The Committee asked about documentation of process. Mr. Dalton stated that notes are made on the re-read list and that work orders are generated for site visits.

The Committee requested staff give them copies of the work orders for review when they have appeals before them.

The Committee said they would like to have a form for use when Public Works goes to a resident's home for a leak investigation that the resident would sign and receive a copy.

The Committee said they would like to see about switching the timing in the policy. Mr. Dalton explained the reason for the current timing.

The Committee requested staff work on a draft of a form that public works would use during leak investigations.

The Committee said they will look more at the policy after the water study has been completed.

Other

The Committee discussed the complaint by the Taylor Street resident regarding paving on/near the resident's property. The Committee asked staff to determine the property boundaries. The Committee asked staff to have resident provide a narrative of what she wants. They asked staff to do what they can to provide costs estimates for addressing the property owner's specific remediation request.

Discussed committee meetings for November and December. There will be no meetings scheduled for November. If something does come up, a meeting will be held near the beginning of December.

Public Forum – Stormwater Concerns

Chair Harrison reviewed the intent of the meeting and speaking time allotted per property owner.

Mr. Dalton made a brief presentation regarding development and storm water management in the Berryville Area.

Ms. Dunkle made a brief presentation regarding the Town's Flood Plain.

Chair Harrison recognized Sharon Painter. Ms. Painter lives on West Main Street. She said she does not have a water problem. Her neighbor advised her that public works indicated they would be constructing a drainage ditch on her property. Mr. Dalton advised that they would not do anything without her knowledge and would schedule a time to meet with her.

Chair Harrison recognized Maria Esparolini. Ms. Esparolini has lived on Treadwell Street since 2014 and said the water has been an issue since 2014. Ms. Esparolini said the water rolls down the street into her front yard and that her neighbor's backyard drains into her side yard and floods her basement. Ms. Esparolini said she installed exterior and interior sump pumps and installed a French drain in her side and front yards as well as a drain on her driveway. She said she has done everything she can and needs the Town to do something.

Chair Harrison recognized Dave Borger. Mr. Borger lives on Treadwell Street. Mr. Borger said he has a pond out front when it rains. He would like to know where the distinction between the Town's and the residents' responsibility for water drainage issues. He also would like to know whose responsibility it is to take care of easements, staff discussed the matter.

Chair Harrison recognized William Spalding. Mr. Spalding lives on Smith Street. Mr. Spalding said the backyard does not drain into the culvert that goes under Main Street. He said it appears the culvert/ditch is too shallow and water flows uphill. Staff said they met with the property owner where the culvert is located and that the property owner is working toward positive drainage.

Chair Harrison recognized Beytullah Arian. Mr. Arian lives on S. Buckmarsh Street. Mr. Arian said his neighbor's lot inclines to his backyard and floods the backyard, garage and basement. He said he doesn't believe the storm drain between the two properties is long enough to move the storm water. He said he has installed a French drain on one side of his home and is not sure who is responsible for drainage. Staff discussed this matter and will be in contact with the parties.

Chair Harrison recognized Margaret Legard. Ms. Legard lives on S. Church Street. Ms. Legard said that water comes from Buckmarsh into her driveway. Ms. Legard said she has 4 sump pumps in her home and would like to know what she can do.

Chair Harrison recognized Wayne Webb: Mr. Webb said that the Blandy observation well indicates a high-water table. He added that these are very unusual conditions.

Chair Harrison asked for additional comments. There were none.

Mr. Dalton reiterated Ms. Dickinson's comments from Tuesday's meeting that the Town would look at these issues indicating that all options are on the table and that the Town will take a comprehensive approach to the matter.

Adjourn

There being no further discussion, the meeting was adjourned at 8:45pm.